

REGULATORY IMPACT STATEMENT
Pukerua Bay – Prohibition of all Fishing Methods except Hand-held Line Fishing

a. Executive Summary

The Ministry of Fisheries (MFish) proposes to introduce a fisheries regulation that prohibits all fishing methods, except hand-held line fishing, in Pukerua Bay commencing 1 October 2009 for an undefined period of time.

Regulations that prohibits all fishing methods, except hand-held line fishing, will continue to allow fisheries resources within Pukerua Bay to recover and provide protection from the effects of intense localised fishing, while recognising and providing for customary fishing practices in that area.

Pukerua Bay has been subject to several section 186A temporary prohibitions of all fishing methods, except hand-held line fishing since 2002. These prohibitions have improved the state of fisheries resources within Pukerua Bay. The Minister of Fisheries recently extending the closure under section 186A of the Fisheries Act 1996 from 7 June 2009 until 6 June 2010.

However, the area requires further long-term protection to achieve the objective of recognising and providing for customary practices.

MFish considers the use of fishery regulations provides a more appropriate means to manage fisheries resources in Pukerua Bay in the long term rather than continuing to apply the section 186A provision that provides for short-term, temporary situations.

All stakeholder groups consulted, including commercial fishing interests, support this proposal.

b. Adequacy Statement

This Regulatory Impact Statement has been approved by the MFish's Regulatory Impact Analysis Review Group and is considered adequate according to the criteria agreed by Cabinet.

c. Status Quo and Problem

Under the status quo, Pukerua Bay is subject to a temporary prohibition on all fishing methods, except hand-held line fishing. This prohibition will expire on 6 June 2010.

After expiry of the prohibition, the status quo opens Pukerua Bay to all legal fishing methods under the amateur and commercial fishing regulations.

Pukerua Bay will be open to all legal methods of fishing under the amateur and commercial fishing regulations post 6 June 2010. As there is easy access to Pukerua Bay any reinstatement of fishing will quickly lead to over-harvesting, and localised depletion of the fisheries resources within Pukerua Bay.

This will adversely affect the use and management practices of Ngati Toa in providing for their customary needs.

From 20 December 2006 until 8 June 2007, Pukerua Bay was under no protection. During that time, the area was subject to intense fishing pressures quickly depleting the still recovering resources in the bay in just six months.

d. Objectives

The key fisheries management objective for Pukerua Bay is:

- i. Recognising and making provision for the use and management practices of tāngata whenua in the exercise of non-commercial fishing rights by –
 - Improving the availability or size (or both) of a species of fish, aquatic life, or seaweed in the area subject to the closure, restriction or prohibition; or
 - Recognising a customary fishing practice in that area.

e. Alternative Options

There is no alternative option other than the status quo which is to continue closures by section 186A *Gazette* notices.

f. Preferred Option

The preferred option is a fisheries regulation prohibiting all fishing methods, except hand-held line fishing, in Pukerua Bay for undefined period of time, beginning 1 October 2009.

The proposed fisheries regulations will have no immediate impact on commercial and recreational fishers, as it maintains the integrity of the current prohibition in Pukerua Bay in place since late 2002 under section 186A. Therefore, there will be no cost to commercial fishers.

Regulations that prohibits all fishing methods, except hand-held line fishing, in Pukerua Bay will continue to allow fisheries resources to recover and provide long-term protection from the effects of intense localised fishing, supporting customary fishing practices in that area.

MFish expects compliance and enforcement costs to remain at the same levels as those that have applied to Pukerua Bay since late 2002.

Unlike under a section 186A temporary prohibition, customary fishers are able to take fisheries resources from Pukerua Bay if authorised to do so under regulation 27A. Ngāti Toa indicates they are unlikely to issue permits authorising take that is not consistent with the proposed regulation.

The proposed regulations recognise and make provision for the use and management practices of Ngāti Toa in the exercise of non-commercial fishing rights.

This proposal maintains the legislative and regulatory intent of the Fisheries Act 1996 by proposing a long-term measure for an area that requires long-term management.

The proposed regulations mirror the current prohibition on all fishing methods, except hand-held line fishing, in place since 2002 under a section 186A temporary prohibition. Fishers understand and are familiar with the current prohibitions making another one easy to implement.

From a compliance perspective, a long-term prohibition would be relatively simple to monitor and enforce, as the only legal method of fishing in Pukerua Bay will be hand-held line fishing. This makes it easier to identify people fishing using illegal methods where officers can be deployed at sea or on the beaches.

Ngāti Toa and residents are keen to assist MFish to ensure full compliance with the proposed fishing restrictions.

MFish expects that after an additional five years of protection, fisheries resources in Pukerua Bay will recover to a healthy and replenished fishery, offering Ngāti Toa the ability to provide for their customary needs.

The proposed regulatory prohibition will overlap with the section 186A temporary prohibition. The proposed regulations mirror the one-year section 186A temporary prohibition. The Minister of Fisheries would not need to revoke the temporary prohibition, as it does not adversely affect the integrity of the proposed regulations or any other legislation. Once the new section 186A prohibition expires, customary fishers are able to take fisheries resources from Pukerua Bay if authorised to do so under regulation 27A, and subsequently the customary fishing regulations, once iwi are able to operate under them. Ngāti Toa indicates they are unlikely to issue permits authorising take that is not consistent with the proposed regulations.

g. Implementation and Review

The proposed regulations will come into effect on 1 October 2009.

MFish have existing signs notifying the general public of the existing prohibition on fishing methods in Pukerua Bay. Fishery Officers will need to update signs posted around the area to show that the prohibition will remain in effect until further notice.

The compliance strategy relies mainly on local iwi and residents. Ngāti Toa and residents are keen to assist MFish to ensure full compliance with the proposed fishing restrictions.

MFish believes it is appropriate to repeat the 2008 NIWA study on paua and kina populations in Pukerua Bay within four years time. This will allow an assessment of the effects of the prohibition on paua and kina populations to ensure local stocks have rebuilt to healthy and desirable levels.

h. Consultation

MFish has recently met with Pukerua Bay Residents Association and Ngāti Toa to discuss potential future management measures for Pukerua Bay fishery resources. MFish gained full support of this proposal from these groups.

All stakeholder groups consulted, including Commercial fishing interests, support this proposed regulation.

MFish also consulted on this regulatory proposal with commercial fishers, recreational fishers, environmental groups and tangata whenua. All of the groups consulted, including commercial fishing interests, support this proposed regulation.

MFish will send letters to those stakeholders that made submissions during the last section 186A temporary prohibition consultation period to notify them of this proposal.